



**MINUTES OF MEETING OF THE CITY COUNCIL  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, June 24, 2003, 8:00 p.m.**

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**MEETING**

The Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Ward.

**ROLL CALL**

Present: COUNCIL MEMBERS Jimenez, Hilson,  
Rodriguez, Ward, Dowling, Henson  
MAYOR Cooper  
Absent: None

**PUBLIC COMMENTS**

Jason Moreno reported a community preservation need to abate an abandoned vehicle on Lauderdale. He also reported a maintenance issue at Food Source on Mission Boulevard. Lastly, he submitted a written inquiry related to the South of 92 development and the use of Hetch Hetchy water to fill the proposed moat.

**CONSENT**

Mayor Cooper indicated that Council Member Ward could vote on the minutes although he was absent from the June 17<sup>th</sup> meeting.

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of June 17, 2003

It was moved by Council/RA Member Henson, seconded by Council/RA Member Dowling, and unanimously carried to approve the Special Joint City Council/Redevelopment Agency Meeting of June 17, 2003.

2. Adoption of Positions and Salaries Resolution for Fiscal Year 2003-2004

Staff report submitted by Human Resources Director Perrin-Scales,  
dated June 24, 2003, was filed.

It was moved by Council Member Henson, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 03-095, "Resolution Designating Positions of Employment in the City Government of the City of Hayward; Providing for Their Number and Salary Range; and Superseding Resolution No. 02-139 and All Amendments Thereto"

3. Approval of Amended Deferred Compensation Plan for City Employees and Authorization to Execute Custodian Agreement

Staff report submitted by Acting Finance and Internal Services Director Lewis, dated June 24, 2003, was filed.

It was moved by Council Member Henson, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 03-096, "Resolution Approving the Amended Deferred Compensation Plan for the City Employees and Authorizing the City Manager to Negotiate and Execute a Custodial Agreement and Placement of Plan Assets in a Custodial Account"

4. Authorization for the City Manager to Execute an Agreement for Surveying and Utility Mapping Services for Water Mains

Staff report submitted by Deputy Director of Public Works/Utilities Ameri, dated June 24, 2003, was filed.

It was moved by Council Member Henson, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 03-097, "Resolution Authorizing the City Manager to Execute an Agreement Between the City of Hayward and CCS Planning and Engineering, Inc. for Surveying and Utility Mapping Services for the Water Mains Replacement Project, Project Nos. 7163 & 7164"

5. Authorization for City Manager to Negotiate and Execute a Joint Powers Insurance Purchase Agreement

Staff report submitted by City Attorney O'Toole dated June 24, 2003, was filed.

It was moved by Council Member Henson, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 03-098, "Resolution Authorizing the City Manager to Execute Documents Necessary for the City to Join the California Risk Management Authority Joint Powers Authority"



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**HEARINGS**

**6. Downtown Business Improvement Area Consideration of Annual Levy**

Staff report submitted by Redevelopment Director Bartlett, dated June 24, 2003, was filed.

There were no requests to speak. Mayor Cooper opened and closed the public hearing at 8:09 p.m.

Council Member Dowling commented positively on the use of decorative banners on the downtown streets.

Council Member Ward reported that in the past, business owners would protest the levy. He commented that, as there were no protests this year that perhaps the business owners are satisfied with the improvements that have occurred.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 03-099, "Resolution Confirming the Annual Report and Authorizing the Downtown Business Improvement Area (DBIA) Levy for Calendar Year 2004"

**7. Phase II, Grand Terrace, PL 2003-0114 - Pulte Homes Corporation (Applicant); Donald Clemerson (Owner) - Use Permit, Site Plan Review, Parking Exception and Vesting Tentative Map Tract 7440 to Construct 74 Townhomes - The Property is Located at the Eastern Terminus of Dean Street, West of the Western Pacific Railroad, North of Jackson Street and South of D Street**

Staff report submitted by Planning Manager Anderly, dated June 24, 2003, was filed.

Planning Manager Anderly described the configuration of the lot that is quite irregular and challenging for the developer. She noted that the developer had agreed to build a community center to serve both Phase I, and Phase II residents. She then responded to questions from the Council related to the noise from the railroad, and the access through Phase I for residents from Phase II.

Planning Manager Anderly explained there will be a pedestrian walk-way through Phase I to D and Grand Streets.

Council Member Henson asked about parks in the area and whether staff has thought about recreation facilities in the area.

City Manager Armas responded that there are a number of green space areas in proximity to this development. Various parks are within a reasonable distance of this area as well.

Council Member Ward asked about the zoning designation for this project. He then asked whether the height limits are the same as Atherton and City Walk Townhomes.

Planning Manager Anderly responded that this project is all Central City Commercial Zoning, and noted that the heights of all of the projects mentioned are the same.

Council Member Hilson commented on the landscaping in front of the units. He then asked for a written explanation regarding the zoning designations in the area.

Council Member Rodriguez commented about the problems with infill projects when there is a noise factor. It seemed that along the fence area, there are noise issues, where the railroad tracks are located. She added that, in particular, the noise is a factor for the two-storied units. She pointed out one unit in particular which will have a problem.

Planning Manager Anderly commented on the noise study and the mitigation measures that are proposed. She noted that the fence is a masonry wall.

Council Member Jimenez noted that this is not the final map approval, but the tentative map filing. He asked about the panes in the windows. He added that this is a very thorough staff report.

Council Member Henson asked about the daily frequency of trains for this area.

Planning Manager Anderly said it was an irregular train schedule and the noise consultant was asked to consider a regular frequency of trains in the area and mitigate for that schedule.

Dennis O'Keefe, Pulte Development, responded to Council Member Ward's questions regarding the height and the absorption rate. The maximum height is 33 feet, while the maximum permitted is up to 50 feet for the area. He noted that the absorption rate is 10 per month in the mid-three hundreds to four hundred plus amounts.

Council Member Hilson asked questions about the landscape plan for the development.

Mr. O'Keefe said it was a major concern with Phase I, so they adjusted for Phase II by realigning the walkways into the units. He commented that on page four, condition number 30 a., has already been completed. He distributed a rendering of the proposed community room.

City Manager Armas noted that the developer had not previously submitted the designs and drawings of the community room to staff for review.

Mayor Cooper asked whether it was appropriate for Council members to see the plans at this meeting prior to a meeting with staff.

Planning Manager Anderly responded that the plan was not being acted on at this meeting. The developer's intent is to show the plan. She noted that the design and location would be up to the discretion of the Planning Director.



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Jeffrey Potts, STG Architects, described the location, size and shape of the community room. With a meeting space totaling 1200 square feet, it will be similar to the buildings with pitched ceilings and a large gathering space in the front of the building. He noted that the landscaping design will be staff approved. He noted that the awning structures are fabric similar to those on the buildings. The columns were designed to reflect the structural elements of the rest of the buildings, with a tower unit as an entry statement.

City Manager Armas suggested the Council Members not spend much time on this design since staff had not had the opportunity to review it.

Mayor Cooper suggested that the design was inappropriately directed to Council since staff had not conducted a review.

Council Member Hilson asked about the reduction of vibration effects on the structures on site. He said he was concerned with the siding and materials of the buildings.

Robert Alvarado, representing the noise consultant, explained that the nuances of the building standards had not been developed. He also reported that his firm had worked on various projects in the City downtown area.

Council Member Hilson asked whether fastening techniques would be available to mitigate the problems of vibration on the skin of the buildings.

Council Member Ward asked about the layout of the community center and consideration of a larger area in the back. He then asked staff to seriously consider expanding the outdoor area when it comes back for final approval.

Mr. O'Keefe explained that this is merely a first rendition of their proposal. They liked the location and that is what they wanted to show. He said they are considering a larger outflow area to the back. He noted that the unit next door has the living space at the top of the unit so it would look over this building. He said they liked the location and have a while to go before they are ready to make a presentation to staff.

Council Member Henson asked Mr. Alvarado questions related to noise and vibration mitigations and asked if there are any new technologies to address noise issues.

Mr. Alvarado commented on the procedures used to prepare the noise study. He was recommending special windows on the upper floors of the units as well as the sound wall next to the tracks to mitigate noise from the trains. As to new technologies, he responded that the industry

itself works to develop better windows and noted sharing the information in disclosure is the best way to deal with it.

Council Member Dowling asked Mr. O'Keefe whether they had been approached or considered acquiring the other lots on this block.

Mr. O'Keefe responded that it is difficult dealing with and acquiring single-family homes in areas like this.

Mayor Cooper opened the public hearing at 8:40 p.m.

Manuel Escobar, owns a business and building on the corner, discussed the undergrounding of power lines to the project.

Mr. O'Keefe responded that the power lines would be underground up to that intersection.

Mr. Escobar asked someone to work with him regarding the sidewalk planned for the side of his building because he has a driveway for a roll-up door and there will be a driveway coming out of the parking lot.

Council Member Dowling asked Mr. Escobar what his business is.

Mr. Escobar explained that he had systems integrators and is a very quiet business.

Chris Musselman, a resident on Sutro Street, explained his concern about the size of the buildings and parking in the area. He noted that this project will block their view of the hills, as well as the sunlight for Sutro Street residents.

Barbara Swarr said this project is dense and very large. She asked about the number of children figured for the project. She discussed the lack of recreation areas near the site. She also asked whether this project was exempted from the in-lieu fees. She expressed concern about the canvas overhangs on the buildings and how durable they would be. She commented on safety at the Memorial Park as well and suggested a park ranger to help. She also suggested a shuttle at this project so people do not always use their cars.

City Manager Armas explained that this project does pay a fee. The ordinance that was in effect at the time it was proposed is one-half the rate or \$2300 per unit.

Jason Moreno commented that the project seemed more like an army barracks than a development. He added his thoughts on the Tanglewood Apartment Complex and the requirement for shuttle service to BART, as well as recreation at the complex.

Mayor Cooper closed the public hearing at 9:20 p.m.

Council Member Dowling made a motion to approve the project, then added that he toured Phase I, and said he was impressed with the quality of the units. It is an attractive project for the downtown area.



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Council Member Ward discussed a rumor that came up several years ago that the railroads would consolidate. He suggested an update on the progress of these talks. He added the caution of thinking more globally of how pedestrian traffic would flow to public transit. He said there has to be an added incentive to encourage people to walk to public transportation.

It was moved by Council Member Dowling, seconded by Council Member Rodriguez, and unanimously carried to adopt the following:

Resolution 03-100, "Resolution Finding the Project Categorically Exempt from CEQA Review and Approving Vesting Tentative Map Tract 7440, Use Permit, Site Plan Review and Exception Application No. PL 2003-0114"

8. Consolidated Landscaping and Lighting District No. 96-1, Zone 10 – Eden Shores – Approve Formation of the District, the Engineer's Report, and Order the Levy of Assessments and the Setting of Collection Rates for FY 2003-04 (*continued from 6/10/03*)

Staff report submitted by Development Review Engineer Gaber, dated June 24, 2003, was filed.

Development Review Engineer Gaber made the staff report, noting that the report shows a base assessment and annual collection rate. Subsequent increases would be voted on by the residents other than the cost increase established by the consumer price index. He asked for approval and commented that the ballot envelopes were unidentified so all would have to be opened at the same time.

He responded to questions from the Council.

Council Member Henson asked whether the developer would contribute anything to offset the costs.

Development Review Engineer Gaber explained that the developer would pay for this year.

City Manager Armas explained that the costs would transfer when the property changed ownership.

Council Member Hilson said it bothers him that this is formed prior to any actual property owners residing in the district. He asked whether there is any mechanism to disavow this action.

City Attorney O'Toole explained that residents could referend the increase; he also suggested that homeowners could protest any increase through the annual vote.

City Manager Armas also explained that when the project is approved, this is added security that the revenue will be available as needed rather than obligating a homeowners association.

Council Member Hilson commented on what is currently accomplished at the development. He suggested that future developments have amenities completed as the residents begin to occupy the homes.

Mayor Cooper opened and closed the public hearing at 9:32 p.m.

Mayor Cooper directed staff to open the ballot envelopes and count the ballots.

City Clerk Reyes reported the results to the City Council as follows:

Votes in favor of the formation and the levy: 2

Votes against the formation and the levy: 0

Property owners Standard Pacific and Acacia Credit approved the formation of the lighting and landscaping district for Zone 10.

Council Member Ward moved to accept the results and order the formation of the District and order the levy of the annual assessments for FY 2003-2004.

It was moved by Council Member Ward, seconded by Council Member Dowling, and unanimously carried to set the levy:

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 03-101, "Resolution Initiating and Approving Formation of Zone 10 Within Consolidated Landscape and Lighting Assessment District No. 96-1, Zone 10 Consisting of Properties in Tracts 7310, 7360 and 7361, and Approving the Engineer's Report, Confirming the Assessment Diagram and Assessment, and Ordering the Levy and Collection of Assessment for the 2003-04 Fiscal Year"

9. Maintenance District No.2 - Eden Shores Buffer Zone and Pre-Treatment Pond - Approve Formation of the District, the Engineer's Report, and Order the Levy of Assessments and the Setting of Collection Rates for FY 2003-04 (*continued from 6/10/03*)

Staff report submitted by Development Review Engineer Gaber, dated June 24, 2003, was filed.

Council Member Henson said he thought the burden of the buffer zone was on the developer completely.

City Manager Armas explained that this is for the upkeep of the buffer zone.

Council Member Henson asked about using Hayward water to fill the moat. He asked for further information in a staff report.

Mayor Cooper opened and closed the public hearing at 9:35 p.m.





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Mayor Cooper directed staff to open the ballot envelopes and count the ballots.

City Clerk Reyes reported the results to the City Council as follows:

Votes in favor of the formation and levy:     2  
Votes against the formation and levy:         0

It was moved by Council Member Henson, seconded by Council Member Rodriguez, and unanimously carried to form the District.

It was moved by Council Member Henson, seconded by Council Member Jimenez, and unanimously carried to order the levy.

Resolution 03-102, "Resolution Initiating and Approving Formation of Maintenance District No. 2, Eden Shores Buffer Zone and Pre-Treatment Pond (MD no. 2) and Approving the Engineer's Report, Confirming the Assessment, and Levy and Collection of Assessment for the 2003-04 Fiscal Year"

## **COUNCIL REPORTS**

There no Council Reports.

## **ADJOURNMENT**

Mayor Cooper adjourned the meeting at 9:39 p.m.

APPROVED:

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Roberta Cooper, Mayor, City of Hayward

ATTEST:

\_\_\_\_\_  
Angelina Reyes, City Clerk, City of Hayward